

SEAN P. JONES,)
)
Plaintiff,)
)
vs.) 1:10-cv-89- SEB-MJD
)
)
SUNWEST MANAGEMENT INC. D/b/a)
AUTUM PARK ASSISTED LIVING)
COMMUNITY, LLC,)
)
Defendant.)

In response to the Court's April 14, 2011, Show Cause Order, Plaintiff asks the Court not to dismiss this action for the reason that he is engaged in settlement negotiations with Defendant. That response, however, does not answer the question raised by the Court's Show Cause Order, which was – why no proof of service of Plaintiff's summons and complaint upon Defendant has ever been filed with the Court.


Fed. R. Civ. P. 4(l) provides: “Unless service is waived, proof of service must be made to the court.” (Emphasis added). Fed. R. Civ. P. 4(m) further provides: “If a defendant is not served within 120 days after the complaint is filed the court – on motion or on its own motion after notice to the plaintiff – must dismiss the action without prejudice or order that service be made within a specified time.”

The Court having previously given Plaintiff notice of the Rule 4(m) problem, now expressly **ORDERS** Plaintiff to file on or before May 23, 2011, either: (1) the waiver of service form executed by Defendant; or (2) proof of service upon Defendant. If no such filing is made, then this cause shall

be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m).

IT IS SO ORDERED.

Date: 05/06/2011


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Steven Smith Davis
DAVIS LAW OFFICE LLC
sdavis@davis-law.net